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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRANDYN RIDGEWAY, et al.

Plaintiffs,

v.

NABORS COMPLETION &
PRODUCTION SERVICES CO., a
Delaware corporation; CITY OF LONG
BEACH, a California municipality;
TIDELANDS OIL PRODUCTION
COMPANY, a business of unknown
form, and DOES 1 through 200,

Defendants.

Case No.: 2:15-cv-03436-DDP-VBKx

District Judge: Dean D. Pregerson
Magistrate Judge: Victor B. Kenton

**PLAINTIFF TIM SMITH'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITION TO CONFIRM FINAL
ARBITRATION AWARD, FOR
FURTHER ATTORNEYS' FEES AND
COSTS, AND TO ENTER JUDGMENT
AGAINST NABORS COMPLETION &
PRODUCTION SERVICES CO.
N/K/A C&J WELL SERVICES, INC.**

Date: June 14, 2021 ____
Time: 10:00 am
Dept. 3

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1 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

2 This petition seeks to confirm an arbitration award after this Court enforced
3 defendant's arbitration agreement. On July 23, 2018, after the Ninth Circuit reversed this
4 Court with instructions, this Court enforced Defendant Nabors' Arbitration Agreement
5 and dismissed plaintiffs Brandyn Ridgeway and Tim Smith's individual non-PAGA claims
6 against defendant NABORS COMPLETION & PRODUCTION SERVICES CO. n/k/a
7 C&J WELL SERVICES, INC. ("Nabors"), thus dismissing Ridgeway and Smith's putative
8 class action [ECF 109].

9 Plaintiff Tim Smith brought a demand for arbitration on July 27, 2018 before JAMS.
10 Joel M. Grossman, Esq. (the "Arbitrator") was selected as Arbitrator pursuant to JAMS
11 rank and strike procedures. Arbitration commenced January 9, 2019. After 24 months of
12 further litigation, including cross motions for summary adjudication of liability, the
13 Arbitrator conducted a six-day hearing on liability of damages and derivative claims.
14 Plaintiff prevailed on the majority of claims and was awarded damages. Plaintiff was
15 awarded \$207,660.43 in wages, \$157,549.20 in prejudgment interest thru October 19,
16 2020, and continuing at \$59.89 per day, and \$6,862.36 in statutory penalties under
17 California Labor Code §226(e). (See Declaration of Richard E. Donahoo ("Donahoo") ¶22,
18 **Exhibit H**) Further proceedings were heard relating to Plaintiff's claim for attorney's fees.
19 The Arbitrator reduced the amount sought but awarded \$304,534.80 in attorneys' fees and
20 \$6,862.36 in costs. The Arbitrator issued his written rulings in a Final Award. (the "Final
21 Award"). (Donahoo, ¶23, **Exhibit I**).

22 Counsel for the parties met and conferred pursuant to Local Rule 7-3 regarding this
23 petition on May 5, 2021. (Donahoo ¶48).

24 Pursuant to section 9 of the Federal Arbitration Act, this Court should confirm the
25 Final Award and enter judgment in favor of Plaintiff.

1 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

2 **A. PROCEDURAL HISTORY PRIOR TO THE ARBITRATION**

3 Beginning in November 2014, Claimant's counsel began investigation of claims by
4 former Nabors workers who performed work on the Gerald Desmond Bridge (GDB)
5 project in Long Beach. Counsel determined that there were legally sufficient grounds for
6 pursuing an action against Nabors. (Donahoo ¶2). On April 2, 2015 Ridgeway and Tim
7 Smith filed suit in Los Angeles Superior Court against Nabors to recover their unpaid
8 wages and for other Labor Code violations, for themselves and as a class action for
9 similarly situated employees. (Donahoo ¶3). In addition to Nabors, Ridgeway and Smith
10 named the City of Long Beach and Tidelands Oil Production Company as defendants in
11 the putative class action, under a cause of action for declaratory relief. (Donahoo ¶4).

12 Nabors removed the action to federal court. (Donahoo ¶5). On May 8, 2015
13 Ridgeway filed and served a formal notice of intent to bring additional non-class claims
14 under Cal. Labor Code §2699 et seq., California's Private Attorneys' General Act
15 ("PAGA"). (Id.) Ridgeway thereafter amended the complaint, adding a cause of action
16 for civil penalties under PAGA on behalf of aggrieved employees under PAGA. (Id.)
17 Nabors and the City of Long Beach and Tidelands brought separate motions to compel
18 individual arbitrations and to dismiss all claims, including claims under PAGA. (Donahoo,
19 ¶6). Ridgeway and Smith opposed the motions. After lengthy briefing Ridgeway and
20 Smith prevailed when this Court ruled the Nabors arbitration agreement was
21 unenforceable. (Id.)

22 Nabors and the City of Long Beach appealed the denial of their respective motions
23 to the Ninth Circuit Court of Appeals. (Donahoo ¶7). Nabors and the City also filed a
24 contested motion to stay the federal court action at the district court. (Id.)

25 During the pendency of the appeal, on or about July 2016, Nabors filed for
26 bankruptcy protection in Houston, Texas in the United States Bankruptcy Court in the
27 Southern District of Texas. (Donahoo ¶8). The filing of the bankruptcy stayed proceedings
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1 in the district court and Ninth Circuit. Both Ridgeway and Smith filed claims in the
2 bankruptcy. (Id.) On behalf of its clients Claimant’s counsel retained Texas bankruptcy
3 counsel in Houston, Texas. (Id.)

4 After Nabors’ parent company agreed to indemnify Nabors for claims, on December
5 22, 2016 Ridgeway and Smith filed a motion for relief from the automatic bankruptcy stay
6 in the bankruptcy court. (Donahoo ¶9). In January and February 2017, with the assistance
7 of Texas bankruptcy counsel, Claimant’s counsel negotiated an Agreed Upon Order with
8 bankruptcy counsel granting relief from the bankruptcy stay. (“2017 Agreed Order”)
9 (Donahoo ¶10; **Exhibit A**). Once the order was entered and the automatic stay was lifted,
10 the litigation in the district court and Ninth Circuit continued. (Donahoo ¶11). Over the
11 course of 2017 Plaintiffs’ counsel litigated against Nabors and the City of Long Beach in
12 the appeals pending at the Ninth Circuit and in this Court concerning the PAGA claims.
13 (Id.).

14 In February 2018 the Ninth Circuit ruled and reversed and remanded with
15 instructions to this Court to enforce the Nabors’ arbitration agreement, an agreement that
16 included a class action waiver. (Donahoo ¶12; **Exhibit B**). Smith’s individual claims, not
17 including the PAGA claims, were thereafter filed at JAMS in a JAMS Demand for
18 Arbitration. (Donahoo ¶13; **Exhibit C**). Plaintiff’s Arbitration Agreement and
19 acknowledgement is attached thereto with Plaintiff’s declaration in support thereof. *See*
20 *Exhibit C*, pp. 19 – 43. The Arbitrator, Joel M. Grossman, Esq., was appointed shortly
21 thereafter. (Donahoo ¶14, **Exhibit D**).

22 While the arbitration commenced, the litigation of the PAGA claims continued in
23 this Court with discovery and significant law and motion practice concerning the PAGA
24 claims. In a May 2018 filing in this Court, Nabors asserted that Ridgeway and Smith
25 claims, including the PAGA claims, were barred under the bankruptcy Plan of
26 Reorganization, despite the 2017 Agreed Order. (Donahoo ¶15). Later in 2018 Nabors
27 filed an answering statement in Plaintiff’s JAMS arbitration that included, as an affirmative
28

1 defense, that Smith's claims were "barred under the bankruptcy Plan of Reorganization,"
2 despite the 2017 Agreed Order granting relief from stay in the bankruptcy. (Nabors
3 Answering Statement filed 8/17/2018) (Id., **Exhibit E**).

4 In 2018 Nabors filed further objections in the bankruptcy court objecting to Smith's
5 claims proceeding in arbitration despite the 2017 Agreed Order that permitted the claims
6 to proceed. (Donahoo ¶16). Nabors argued Ridgeway could not proceed with any of the
7 PAGA claims. (Id.) The Arbitration commenced in January 2019 and the Arbitrator was
8 appointed in February 2019. (Donahoo, ¶17).

9 Faced with Nabors' continued attempt to deny Claimant's claim and Nabors'
10 objections based on the bankruptcy order, in 2019 Ridgeway and Smith returned to the
11 bankruptcy court moving for clarification of the 2017 Agreed Order issued by the
12 bankruptcy court. (Donahoo ¶ 18). Smith sought an order permitting his claims to proceed,
13 both in the pending JAMS arbitration and his PAGA claims proceeding in this Court. (Id.)
14 Nabors filed a cross-motion seeking to have the bankruptcy court sustain its objection to
15 Ridgeway and Smith's claims including the PAGA claims. (Id.) In a hearing July 16, 2019
16 the bankruptcy court granted-in-part and denied-in-part the parties' motions, ruling that
17 Ridgeway and Smith could proceed with their individual claims in arbitration but that
18 Ridgeway could not proceed with his PAGA claims. (Id., **Exhibit F**).

19 **B. PLAINTIFF'S ARBITRATION**

20 Thereafter in 2019, this matter was subsequently set for hearing in binding
21 arbitration under JAMS. (Donahoo ¶19). Both sides indicated an intent to pursue summary
22 judgment or adjudication. (Id.)

23 **1. THE ARBITRATOR ISSUED ITS RULING DENYING SUMMARY** 24 **JUDGMENT/ADJUDICATION**

25 On June 29, 2020 the parties filed cross-motions for summary judgment or
26 adjudication. (Donahoo ¶20). Presenting lengthy submissions and extensive documents
27 and other evidence, both sides argued that there were no triable issues of fact as to liability.

(Id.) Claimant claimed liability was present under the Labor Code (Labor Code §§1194(a), 1771, 1774). Nabors claimed it was entitled to judgment as a matter of law. (Id.) On August 17, 2020 this Arbitrator denied Nabors' motion and denied Claimant's motion triable issues of fact. (Id., **Exhibit G**)

2. IN THE ARBITRATION HEARING RULED IN FAVOR OF CLAIMANT

The matter proceeded in a 6-day arbitration. Following a six-day "Zoom" arbitration hearing on liability and damages, on December 14, 2020, the Arbitrator ruled in favor of Smith and issued an Interim Award, finding that Smith was entitled to prevailing wages, statutory interest, and penalties under California Labor Code § 226(e). (Donahoo ¶21, **Exhibit H**). Specifically, Plaintiff was awarded \$ 207,660.43 in wages, prejudgment interest in the amount of \$157,549.20 thru October 19, 2020, and continuing at \$56.89 per day, and \$4,000.00 in statutory penalties under California Labor Code §226(e). (Id.)(**Exhibit H**)

3. THE ARBITRATOR ISSUED ITS RULING ENTITLING CLAIMANT TO RECOVERY OF REASONABLE ATTORNEY'S FEES AND COSTS

Under Phase 1 of the hearing on liability and damages, the Arbitrator ruled on the eligibility, but not the amount, of attorneys' fees to be awarded. Nabors did not contest that if Smith prevailed on his claim that attorneys' fees would be available. In its Interim Award ruling on liability and damages in favor of the Claimant, the Arbitrator also ruled that Claimant's counsel is entitled to attorneys' fees and costs to be determined in Phase 2 of the Arbitration. (Donahoo ¶ 22, **Exhibit H**, p. 14).

4. THE ARBITRATOR AWARDED REASONABLE ATTORNEYS' FEES AND COSTS IN THE FINAL AWARD

On February 17, 2021, Claimant filed his Motion to Set Amount of Attorney's Fees and Costs. (Donahoo, ¶23). Nabors filed its opposition to Smith's motion on March 22, 2021, and Smith filed his reply to the opposition on April 2, 2021. (Id.) The Arbitrator issued its ruling through a Final Award on May 3, 2021, concluding Phase 2 of the

1 arbitration, granting Smith's motion and awarded \$304,534.80 in attorneys' fees and
2 \$6,862.36 in costs. (Id., **Exhibit I**).

3 The attorneys' fee award represented a substantial reduction from the amount
4 sought. Through the motion, Claimant initially sought \$1,965,425 of attorneys' fees (based
5 on a 2.0 lodestar multiplier) and costs of \$52,476.55. The lodestar was calculated as
6 \$954,860.17 for legal services provided by Donahoo & Associates ("Donahoo") and
7 \$55,705 for the bankruptcy firm Shannon, Martin, Finkelstein ("SMF"). Smith requested a
8 multiplier of 2.0 for the Donahoo fees, but not the SMF fees, for a total of \$1,965,425 in
9 attorney's fees. (Donahoo ¶24).

10 However, Claimant in his reply brief on the motion reduced the attorneys' fees and
11 costs requested in light of Arbitrator Hon. Rex Heeseman's award of attorneys' fees and
12 costs in Brandyn Ridgeway's Arbitration. (Donahoo ¶25). In both arbitrations, Claimant's
13 counsel sought all reasonable attorneys' fees and costs incurred in litigating Claimant's
14 claims before the Superior Court, the U.S. District Court, Ninth Circuit Court of Appeals,
15 all prior to Claimant's demand for arbitration ("Pre-Demand"). (Id.). These fees were
16 recoverable under either Ridgeway's or Smith's motion for attorney's fees, and Claimant
17 represented that he would reduce the fees requested if Arbitrator Hon. Heeseman were to
18 award Pre-Demand attorneys' fees in the Ridgeway arbitration. (Id.). Following Hon.
19 Heeseman's award, Claimant reduced the request to a lodestar of \$719,449, with a
20 multiplier of 2.0, for a total of \$1,438,898 of attorneys' fees, and the modified request of
21 \$34,233.36 in costs. (Id.).

22 Although the Arbitrator awarded a significant amount of the lodestar, he cut billable
23 hours spent prior to Plaintiff's demand for arbitration ("Pre-Demand") and billable hours
24 spent during the arbitration. (Donahoo ¶26).

25 The Arbitrator denied counsel's request for the "Pre-Demand" hours based on his
26 interpretation of Hon. Heeseman's ruling on that issue, stating that "much of the fees were
27 incurred in matters such as the original class action, opposition to the motion to compel
28

1 arbitration and the PAGA lawsuit,” which “Smith and Ridgeway did not prevail in these
2 matters,” and therefore, “the fee request was properly reduced by Judge Heeseman.”
3 (Donahoo ¶27). On that basis, the Arbitrator limited his award only to fees and costs
4 directly related to the Arbitration. (Id.).

5 Smith’s fee request for time directly related to the Arbitration was a lodestar of
6 \$380,668.50. (Donahoo ¶28). The Arbitrator ultimately discounted the lodestar by twenty
7 (20) percent for a total award of \$304,534.80. (Id.). The Arbitrator concluded that a
8 discount was appropriate based on excessive billable time and because Claimant did not
9 prevail on all of his claims, namely, his request for liquidated damages and waiting time
10 penalties. (Id.). The Arbitrator did not increase the award with a multiplier because
11 Claimant achieved limited success. (Id.)

12 The Court awarded \$6,862.36 in costs after reducing certain expenses related to both
13 “Pre-Demand” proceedings and those directly attributed to the arbitration. (Donahoo ¶29).

14 **C. THE ARBITRATOR’S RULING IS CONSISTENT WITH OTHER**
15 **ARBITRATORS’ RULINGS ON THE SAME LIABILITY ISSUE**

16 As set forth in the Arbitrator’s written rulings, the Arbitrator applied the law
17 appropriately. Other arbitrators adjudicating the same issue- whether Nabors’ work was
18 covered by the Prevailing Wage Law (“PWL”)- independently and uniformly have come
19 to the same conclusion in other arbitrations. Currently, including Plaintiff, twenty-seven
20 27 former Nabors workers on the subject project are proceeding in JAMS arbitration, each
21 on an individual basis with an independent arbitrator. The workers are represented by the
22 Donahoo firm. (Donahoo ¶30)

23 Since proceeding to arbitration on Plaintiffs’ individual claims, other arbitrators who
24 have ruled on the liability issue in other arbitrations have uniformly found liability against
25 Nabors and in plaintiffs’ favor, concluding that the work performed by Nabors was covered
26 by the PWL. (Donahoo ¶¶31-40, **Exhibits J – Q**).

1 **III. THE COURT SHOULD CONFIRM THE FINAL AWARD AND ENTER**
2 **JUDGMENT**

3 Section 9 of the FAA governs confirmation of arbitration awards:

4 If the parties in their agreement have agreed that a judgment of the court shall be
5 entered upon the award made pursuant to the arbitration, and shall specify the court,
6 then at any time within one year after the award is made any party to the arbitration
7 may apply to the court so specified for an order confirming the award, and thereupon
8 the court must grant such an order unless the award is vacated, modified, or corrected
9 as prescribed in sections 10 and 11 of this title.

10 9 U.S.C. § 9.

11 “Review of an arbitration award itself is ‘both limited and highly deferential.’
12 *DeMartini v. Johns*, 693 F. App’x 534, 436 (9th Cir. June 7, 2017) (quoting *Sheet Metal*
13 *Workers’ Int’l Ass’n v. Madison Indus., Inc.*, 84 F.3d 1186, 1190 (9th Cir. 1996)). A district
14 court will set aside an arbitrator’s decision “only in very unusual circumstances.” *First*
15 *Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 942 (1995).

16 Section 10 provides a district court may vacate an arbitration award under
17 the following circumstances:

18 (1) where the award was procured by corruption, fraud, or undue means;

19 (2) where there was evident partiality or corruption in the arbitrators, or either of
20 them;

21 (3) where the arbitrators were guilty of misconduct in refusing to postpone the
22 hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material
23 to the controversy; or of any other misbehavior by which the rights of any party have been
24 prejudiced; or,

25 (4) where the arbitrators exceeded their powers, or so imperfectly executed them that
26 a mutual, final, and definite award upon the subject matter was not made.

27 9 U.S.C. § 10(a)(1) – (4).
28

1 “The [] grounds [in § 10] afford an extremely limited review authority, a limitation
2 that is designed to preserve due process but not to permit unnecessary public intrusion into
3 private arbitration procedures.” *Kyocera Corp v. Prudential-Bache Trade Serv. Inc.*, 341
4 F.3d 987, 998 (9th Cir. 2003) (en banc). These grounds are “the exclusive means by which
5 a court reviewing an arbitration award under the FAA may grant vacatur of a final
6 arbitration award.” *Biller v. Toyota Motor Corp.*, 668 F.3d 655, 664 (9th Cir. 2012) (citing
7 *Kyocera*, 34 F.3d 987 (9th Cir. 2003) and *Hall St. Assoc., LLC v. Mattel, Inc.*, 552 U.S.
8 576 (2008)). An arbitrator exceeds her power not by merely interpreting or applying the
9 governing law incorrectly, but when the award is “completely irrational, or exhibits a
10 manifest disregard of law.” *Kyocera*, 341 F.3d at 997. To vacate an arbitration award for
11 manifest disregard of the law, “[i]t must be clear from the record that the arbitrators
12 recognized the applicable law and then ignored it.” *Mich. Mut. Ins. Co. v. Unigard Sec.*
13 *Ins. Co.*, 44 F.3d 826, 832 (9th Cir. 1995).

14 Section 11 provides that a district court may modify or correct an arbitration award
15 under the following circumstances:

16 (a) where there was an evident material miscalculation of figures or an evident
17 material mistake in the description of any person, thing, or property referred to in
18 the award;

19 (b) where the arbitrators have awarded upon a matter not submitted to them, unless
20 it is a matter not affecting the merits of the decision upon the matter submitted;

21 (c) where the award is imperfect in matter of form not affecting the merits of the
22 controversy.

23 9 U.S.C. § 11(a) – (c).

24 These three provisions, §§ 9-11, “substantiat[e] a national policy favoring arbitration
25 with just the limited review needed to maintain arbitration’s essential virtue of resolving
26 disputes straightaway.” *Hall St. Assocs.*, 552 U.S. at 588. “Any other reading opens the
27 door to the full-bore legal and evidentiary appeals that can ‘rende[r] informal arbitration
28

1 merely the prelude to a more cumbersome and time-consuming judicial review process ...
2 and bring arbitration theory to grief in post arbitration process.” *Id.* “Neither erroneous
3 legal conclusions nor unsubstantiated factual findings justify federal court review of an
4 arbitral award under the statute, which is unambiguous in this regard [and] a court must
5 confirm an arbitration award unless it is vacated, modified, or corrected as prescribed in §§
6 10 and 11.” *Bosack v. Soward*, 586 F.3d 1096, 1102 (9th Cir. 2009) (citations omitted).

7 Here, the Court should confirm the Final Award as this petition satisfies the
8 requirements of section 9. The Arbitration Agreement was determined by the Ninth Circuit
9 to be binding and enforceable between the parties. (Donahoo ¶12). The Final Award
10 issued on May 3, 2021 is detailed and properly supported. This Petition is made within
11 one (1) year of the date that the Final Award was issued.

12 Furthermore, this is the appropriate court to confirm the Final Award and enter
13 judgment for Plaintiff. This Court adjudicated the arbitrability of the Arbitration
14 Agreement at issue and enforced it. The Arbitration Agreement does not specify the court
15 designated to enter judgment confirming the Award. The Arbitration Agreement,
16 Paragraph 31(D) provides that “Parties to these Rules shall be deemed to have consented
17 that judgment upon the award of the arbitrator may be entered and enforced in any federal
18 or state court having jurisdiction of the Parties” *See* Donahoo ¶13, Exhibit C, p. 38.
19 Section 9 permits this petition to “be made to the United States court in and for the district
20 within which such award was made.” (*Id.*) The matter was heard in Orange County before
21 Arbitrator Joel M. Grossman, Esq. and issued from the JAMS Orange County office. Since
22 the award was entered in the district in which this Court resides, this Court may confirm
23 the Final Award. Finally, the Final Award should also be confirmed because there are no
24 grounds to vacate, modify, or correct the award under sections 10 and 11 of the Federal
25 Arbitration Act.

1 **IV. PLAINTIFF IS ENTITLED TO ATTORNEYS' FEES INCURRED IN**
2 **PREPARING THE INSTANT PETITION**

3 Plaintiff has incurred more than \$4,200 in reasonable attorneys' fees in connection
4 with preparing this Petition. (Donahoo ¶¶41-42) This amount is recoverable pursuant to
5 California Labor Code Section 1194(a) and 226(e).

6 Plaintiff's First Cause of Action for Failure to Pay Prevailing Wages is brought
7 under Labor Code §§1194, 1771 and 1774. (Demand and Claim for Arbitration,
8 ("Complaint") p. 1). Claimant's Third Cause of Action for Failure to Provide Accurate
9 Itemized Wage Statement under Labor Code §226(a) prayed for "penalties and/or actual
10 damages pursuant to Labor Code §226(e) for violation of Labor Code §226(a)." (Complaint, p. 11). Claimant further prayed for "[a]n award of attorneys' fees under Labor
11 Code §1194 . . . and/or other applicable state laws."

12 Labor Code Section 1194(a) provides:

13 (a) Notwithstanding any agreement to work for a lesser wage, any employee
14 receiving less than the legal minimum wage or the legal overtime compensation
15 applicable to the employee is entitled to recover in a civil action the unpaid
16 balance of the full amount of this minimum wage or overtime compensation,
17 including interest thereon, reasonable attorney's fees, and costs of suit.

18 The California Supreme Court has confirmed the right of plaintiffs to recover one-
19 way attorneys' fees for prevailing wage claims under §1194(a). *Kirby v. Immoos Fire*
20 *Protection, Inc.*, (2012) 53 Cal. 4th 1244, 1252.

21 "Arbitration agreements are governed by their own attorney fees and costs
22 provisions. But in employment dispute matters involving statutory claims, an employee's
23 statutory rights to attorney fees and costs are not waived or forfeited, but rather are inferred
24 in the arbitration agreement." (*Ling v. P.F. Chang's China Bistro, Inc.*, (2016) 245 Cal.
25 App. 4th 1242, 1254, citing, *Armendariz v. Foundation Health Psychcare Services, Inc.*
26

(2000) 24 Cal.4th 83, 106 (*Armendariz*); *Broughton v. Cigna Healthplans* (1999) 21 Cal.4th 1066, 1086].)

The Arbitrator in its ruling issued on December 14, 2020 and determined that Plaintiff is entitled to reasonable attorney's fees and costs based on Cal. Labor Code §§ 1194(a) and 226(e). *See* Exhibit H, p. 14. This ruling provided the basis for Plaintiff's request for attorneys' fees and which were eventually awarded in part by the Arbitrator on May 3, 2021. *See* Exhibit I.

Plaintiff has incurred more than \$4,200 in attorneys' fees preparing this petition. (Donahoo, ¶42). This amount is based on reasonable hours expended and does not include the expected costs of replying to any opposition or attending the hearing. (*Id.*) Should Nabors file a motion to vacate or modify the award, Plaintiffs will seek additional fees associated with litigating that motion.

V. CONCLUSION

For the foregoing reasons, Smith respectfully requests that this Court:

1. Issue an Order confirming the Final Award;
2. Award post-Arbitration attorneys' fees in connection with the instant motion in an amount of at least \$4,200, according to proof at time of hearing;
3. Enter judgment in favor of Tim Smith and against Nabors in the amount of \$207,660.43 in wages, \$157,549.20 in statutory interest thru October 19, 2020, and continuing at \$59.89 per day, \$4,000.00 in statutory penalties under California Labor Code § 226(e), \$304,534.80 in attorneys' fees, plus attorneys' fees awarded for the confirmation proceedings, and \$6,862.36 in costs;

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Dated: May 12, 2021

By: /s/ Richard E. Donahoo
Richard E. Donahoo
Sarah L. Kokonas
Attorneys for Tim Smith

CERTIFICATE OF SERVICE

I, Amy Duncan, employed at Donahoo & Associates, PC, counsel for Plaintiff, hereby certify that on May 12, 2021, a copy of the foregoing **PLAINTIFF TIM SMITH'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION TO CONFIRM FINAL ARBITRATION AWARD, FOR FURTHER ATTORNEYS' FEES AND COSTS, AND TO ENTER JUDGMENT AGAINST NABORS COMPLETION & PRODUCTION SERVICES CO. N/K/A C&J WELL SERVICES, INC.** was served on the following counsel of record by email:

Dated this 12th day of May 2021.

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/s/ Amy Duncan

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